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June 1, 2015

VIA ECF

Hon. Valerie E. Caproni
U.S. District Court
40 Foley Square
New York, NY 10007

Re: *Adkins et al. v. Morgan Stanley et al.*, No. 1:12-cv-7667 (VEC)
(GWG)

AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
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Dear Judge Caproni,

I represent Plaintiffs in the above-captioned action. In its recent Opinion and Order, ECF No. 230, this Court denied Plaintiffs' Motion for Class Certification. In so doing, the Court "recognize[d] the likelihood that this ruling constitutes a 'death knell' for Plaintiffs' lawsuit, *cf. Sumitomo Copper Litig. v. Credit Lyonnais Rouse, Ltd.*, 262 F.3d 134, 140-41 (2d Cir. 2001), and that appellate review pursuant to Rule 23(f) may therefore be appropriate, *see Levitt v. PriceWaterhouseCooper LLP*, No. 07- 3334-mv, 2007 WL 4060136 (2d Cir. Nov. 7, 2007)." *Id.* at 49-50. We write to notify you that, on May 28, 2014, Plaintiffs filed a Petition for Permission to Appeal the Denial of Class Certification Pursuant to Fed. R. Civ. P. 23(f) with the United States Court of Appeals for the Second Circuit.

A copy of the petition and its accompanying appendix are attached hereto. Per Federal Rule of Appellate Procedure 5(b)(2), Defendants "may file an answer in opposition or a cross-petition within 10 days after the petition is served."

Thank you for your consideration of this matter.

Sincerely,

Rachel Goodman

SUSAN N. HERMAN
PRESIDENT

ANTHONY D. ROMERO
EXECUTIVE DIRECTOR